

The Gazette of India



EXTRAORDINARY

PART II—Section 2

PUBLISHED BY AUTHORITY



No. 9] NEW DELHI, FRIDAY, MAY 17, 1957/VAISAKHA 27, 1879

LOK SABHA

The following Bill was introduced in Lok Sabha on the 17th May, 1957:—

BILL No. 10 of 1957

A Bill further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 1957. Short title and commencement.

5 (2) Section 2 shall be deemed to have come into force on the 10th day of March, 1957, and section 3 on the 1st day of December, 1956.

14 of 1947. 2. In section 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), for clause (r), the following clause
10 shall be substituted, namely:— Amendment of section 2

“(r) ‘Tribunal’ means an Industrial Tribunal constituted under section 7A and includes an Industrial Tribunal constituted before the 10th day of March, 1957, under this Act;”.

3. For section 25FF of the principal Act, the following sections
15 shall be substituted, namely:— Substitution of new sections for section 25FF.

20 “25FF. Where the ownership or management of an undertaking is transferred, whether by agreement or by operation of law, from the employer in relation to that undertaking to a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately Compensation to workmen in case of transfer of undertakings.

before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 25F, as if the workman had been retrenched:

Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if—

(a) the service of the workman has not been interrupted by such transfer;

(b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer; and

(c) the new employer is, under the terms of such transfer or otherwise, legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

compensation to workmen in case of closing down of undertakings.

25FFF. (1) Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of section 25F, as if the workman had been retrenched:

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the workman under clause (b) of section 25F shall not exceed his average pay for three months.

Explanation.—An undertaking which is closed down by reason merely of financial losses or accumulation of undisposed of stocks shall not be deemed to have been closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.

(2) Where any undertaking set-up for the construction of buildings, bridges, roads, canals, dams or other construction works is closed down on account of the completion of the work within two years from the date on which the undertaking had been set-up, no workman employed therein shall be entitled to

any compensation under clause (b) of section 25F, but if the construction work is not so completed within two years, he shall be entitled to notice and compensation under that section for every completed year of service or any part thereof in excess of six months, excluding therefrom the first two years of his service in that undertaking."

4. The Industrial Disputes (Amendment) Ordinance, 1957 is hereby repealed.

Repeal of
Ordinance 4
of 1957.

STATEMENT OF OBJECTS AND REASONS

In a judgment delivered on the 27th November, 1956, the Supreme Court held that no retrenchment compensation was payable under section 25F of the Industrial Disputes Act, 1947, to workmen whose services were terminated by an employer on a real and *bona fide* closure of business, or when termination occurred as a result of transfer of ownership from one employer to another. Since then, a number of undertakings have closed down or put up notices of closure for one reason or another. This has led and is likely to lead to a large number of workmen being rendered unemployed without any compensation. In order to meet the situation which was causing hardship to workmen, it was considered necessary to take immediate action and the Industrial Disputes (Amendment) Ordinance, 1957 (4 of 1957), was promulgated with retrospective effect from 1st December, 1956.

2. The Ordinance provides that compensation would be payable to workmen whose services are terminated on account of the transfer or closure of undertakings. In the case of transfer of an undertaking, however, if the workman is re-employed on terms and conditions which are not less favourable to him, he will not be entitled to any compensation. This was the position which existed prior to the decision of the Supreme Court. In the case of closure of business on account of circumstances beyond the control of the employer, the maximum compensation payable to workmen has been limited to his average pay for three months. If the undertaking is engaged in any construction work and it is closed down within two years on account of the completion of its work, no compensation would be payable to workmen employed therein.

3. This Bill seeks to replace the Ordinance by an Act of Parliament. Opportunity has been taken to amend the definition of "Tribunal" as inserted by the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 (36 of 1956). The amendment is merely formal and clarificatory.

G. L. NANDA.

NEW DELHI;
The 10th May, 1957.

M. N. KAUL,
Secretary.